

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0254-PST-E TCEQ ID: RN101775518 CASE NO.: 32761
RESPONDENT NAME: SOCORRO ALVARADO

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 301 East Austin Street, Kermit, Winkler County</p> <p>TYPE OF OPERATION: Property with underground storage tanks.</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 25, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Gary Shiu, Litigation Division, MC R-12, (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Michael Edmiston, Midland Regional Office, MC R-7, (432) 570-1359</p> <p style="margin-left: 20px;">Respondent: Ms. Socorro Alvarado, 301 W. Jim Sharp Avenue, Kermit, Texas 79745</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 15, 2007</p> <p>Date of NOE Relating to this Case: March 2, 2007</p> <p>Background Facts: The EDPRP was filed on August 16, 2007. Service was not achieved and the Litigation Division was unable to locate the Respondent. An EDFARP was filed on March 11, 2008, after a valid address was obtained. Respondent received notice of the EDFARP on March 13, 2008, as evidenced by the signature on the return-receipt "green card." The Respondent failed to file an Answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Compliance Status: Not in compliance</p> <p>PST: Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>	<p>Total Assessed: \$7,875</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$7,875</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements:</p> <p>Respondent's delivery certificate is revoked immediately.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none">1. Within 10 days, return Respondent's delivery certificate to the TCEQ.2. Within 30 days, permanently remove the UST system from service.3. Within 45 days, submit written certification to demonstrate compliance with the Ordering Provisions above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 15, 2006

TCEQ

DATES	Assigned	20-Feb-2007	Screening	21-Feb-2007	EPA Due	
	PCW	1-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Socorro Alvarado
Reg. Ent. Ref. No.	RN101775518
Facility/Site Region	7-Midland
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32761	No. of Violations	1	
Docket No.	2007-0254-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge	
Multi-Media		EC's Team	EnforcementTeam 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$375
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Notes Enhancement for one NOV with same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The respondent does not meet the good faith criteria.

Total EB Amounts	\$4,433	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$10,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$7,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,875
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement

PAYABLE PENALTY	\$7,875
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Screening Date 21-Feb-2007

Docket No. 2007-0254-PST-E

PCW

Respondent Socorro Alvarado

Policy Revision 2 (September 2002)

Case ID No. 32761

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN101775518

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 21-Feb-2007

Docket No. 2007-0254-PST-E

PCW

Respondent Socorro Alvarado

Policy Revision 2 (September 2002)

Case ID No. 32761

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN101775518

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

6 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events (one per tank) are recommended from the record review date of February 15, 2007 to the February 21, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,433

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

Economic Benefit Worksheet

Respondent Socorro Alvarado
Case ID No. 32761
Reg. Ent. Reference No. RN101775518
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Dec-1998	1-Nov-2007	8.9	\$4,433	n/a	\$4,433

Notes for DELAYED costs

Estimated expense to permanently remove the UST system from service. The Date Required is the date when the respondent was required to upgrade the UST system and the Final Date is based on the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4,433

Compliance History

Customer/Respondent/Owner-Operator:	CN602815169	ALVARADO, SOCORRO	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN101775518	ALVARADO, SOCORRO	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	12248
Location:	301 E AUSTIN ST, KERMIT, TX, 79745		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 07 - MIDLAND			
Date Compliance History Prepared:	February 21, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 21, 2002 to February 21, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Patricia Chawla		Phone:	512-239-0739

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?
Yes
2. Has there been a (known) change in ownership of the site during the compliance period?
Yes
3. If Yes, who is the current owner?
Alvarado, Socorro
4. If Yes, who was/were the prior owner(s)?
Estate of Robert Kirby
5. When did the change(s) in ownership occur?
04/01/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/03/2006 (481326)
2 02/16/2007 (540869)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/03/2006 (481326)

Self Report? NO

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: failure to permanently remove UST's from service

Classification: Moderate

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOCORRO ALVARADO,
RN101775518**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2007-0254-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Socorro Alvarado ("Ms. Alvarado").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Ms. Alvarado owns property with underground storage tanks ("USTs") located at 301 East Austin Street, Kermit, Winkler County, Texas (the "Facility").
2. Ms. Alvarado's three USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Currently, these USTs are not in use and the property is not being used for retail sales of gasoline. Ms. Alvarado's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During a record review conducted on February 15, 2007, TCEQ staff documented that Ms. Alvarado failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with upgrade requirements.
4. Ms. Alvarado received notice of the violation on or about March 7, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement

Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Socorro Alvarado" (the "EDPRP") in the TCEQ Chief Clerk's office on August 16, 2007.

6. By letter dated August 16, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director mailed Ms. Alvarado notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "undeliverable and unable to forward" and that Ms. Alvarado has "moved and left no forwarding address." The first class mail was also returned to the TCEQ, indicating that Ms. Alvarado did not receive notice of the EDPRP.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Socorro Alvarado" (the "EDFARP") in the TCEQ Chief Clerk's office on March 11, 2008.
8. By letter dated March 11, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Alvarado with notice of the EDFARP. According to the return receipt "green card," Ms. Alvarado received notice of the EDFARP on March 13, 2008, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Ms. Alvarado received notice of the EDFARP, provided by the Executive Director. Ms. Alvarado failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Alvarado is subject to the jurisdiction of the TCEQ pursuant to the Texas Water Code and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Ms. Alvarado violated 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with upgrade requirements
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director attempted to timely serve Ms. Alvarado with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

4. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Ms. Alvarado with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 9, Ms. Alvarado has failed to file a timely answer to the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Ms. Alvarado and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Ms. Alvarado for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
9. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Ms. Alvarado's UST delivery certificate if the Commission finds that good cause exists.
10. Good cause for revocation of Ms. Alvarado's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 4, 5, 6, 7, 8, and 9 and Conclusions of Law Nos. 2, 3, 4, and 5

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Ms. Alvarado is assessed an administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Ms. Alvarado's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the

"Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Socorro Alvarado; Docket No. 2007-0254-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Ms. Alvarado's UST delivery certificate is revoked immediately upon the effective date of this Order. Ms. Alvarado may submit an application for a new delivery certificate only after Ms. Alvarado has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Ms. Alvarado shall send her UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

4. Ms. Alvarado shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of the Commission Order, Ms. Alvarado shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
 - b. Within 45 days after the effective date of the Commission Order, Ms. Alvarado shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts or other records to demonstrate compliance with Ordering Provision No. 4.a.

The certifications required above shall be notarized by a State of Texas Notary Public and include the following certification language.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Mr. Michael Edmiston,
Waste Section Manager
Texas Commission on Environmental Quality
Midland Regional Office
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5451

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Ms. Alvarado. Ms. Alvarado is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Alvarado shall be made in writing to the Executive Director. Extensions are not effective until Ms. Alvarado receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to Ms. Alvarado if the Executive Director determines that Ms. Alvarado has not complied with one or more of the terms or conditions in this Order.

9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF GARY K. SHIU

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Gary K. Shiu. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, Mark Curnutt, former staff attorney of the TCEQ, filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Socorro Alvarado" (the "EDPRP") with the Office of the Chief Clerk on August 16, 2007.

Mr. Curnutt sent the EDPRP to Ms. Alvarado at her last known address on August 16, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "undeliverable and unable to forward" and that Ms. Alvarado has moved and left no forwarding address. The first class mail was returned to the TCEQ, indicating that Ms. Alvarado did not receive notice of the EDPRP.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Socorro Alvarado" (the "EDFARP") with the Office of the Chief Clerk on March 11, 2008.

I sent the EDFARP to Ms. Alvarado at her last known address on March 11, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Ms. Alvarado received notice of the EDFARP on March 13, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Ms. Alvarado received notice of the EDFARP. Ms. Alvarado failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference."



Gary K. Shiu
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Gary K. Shiu, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 29 day of January A.D., 2008.

Margaret Jackson

Notary Stamp

